

REMARKS

Claims 1-9 are pending in the present application. Claims 1-4 and 6-9 are rejected. Applicants gratefully acknowledge that claim 5 is allowable if rewritten in independent form to include the limitations of base claim 1.

Claims 1-4 and 7-9 were rejected under 35 U.S.C. 102(b) as being anticipated by *Ito* (US Application Publication 2001/0001763). Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Ito*. Favorable reconsideration is requested.

The present invention is a wireless communication device. The device has a position information acquiring unit in which the current position is recognized by, *e.g.*, a global positioning system ("GPS"). A communication condition corresponding to this position information is determined in a communication condition determining unit. This determined communication condition is set in a communication control unit of the wireless communication device. Wireless communication is performed by the communication control unit based on the communication condition.

In the present invention, a country is identified corresponding to the recognized current position, the channel is set by referring to the wireless communication standards of that country, and wireless communication is performed based on this communication condition.

Ito relates to a method of using a GPS and a mobile telephone. *Ito* describes performing position measuring by using the GPS together with a radio wave from a base station of the mobile telephone network. Based on an evaluation of uncertainty of the absolute position which has been measured, the current position is calculated by selecting the data of one of the absolute positions which has been measured.

However, this merely suggests that when the position measuring by the GPS is difficult, position measuring by the radio wave can be used from a base station of the mobile telephone network. The radio wave measuring is in addition to and at the same time as the position measuring by the GPS. This is not relevant to the features of the present invention.

To support the claims of *Ito*, the specification of *Ito* contains the following description in Paragraph [0077]:

Incidentally, when computer communications are performed such as Internet or the like, the transmission speed may be accidentally reduced due to a variety of causes. However, even in such a case, if data to be received is music data, the music can be transmitted without damaging its real time nature by generating a data stream while a portion of the data is missing. As the processing for this case, for example, as illustrated in Fig. 17, a packet is received (step 151), and it is judged whether or not a reception speed of the received packet is at a desired rate or higher (step 152). If it is at the desired rate or higher, communication reception processing is performed (step 135), and data output processing is performed (step 154). Conversely, if it is not at the desired rate or higher, a data stream is generated at every predetermined time while a portion of data is missing (step 155), and the data output processing may be performed for the generated stream.

Applicants believe that this description describes how to cope with the situation where the state of receiving a communication line is not good and part of the data is omitted. This is not relevant to the features of the present invention.

Applicants respectfully submit that the subject matter of the present invention is not disclosed in *Ito*.

Ito does not disclose a communication condition determining unit. Nor does *Ito* disclose a condition setting unit. The Examiner cites element 8 in *Ito* as disclosing a communication determining unit. The unit denoted by the numeral 8 of *Ito* is a GPS certainty detector unit which detects the certainty of a received GPS signal. Specifically, it detects a GDOP signal

(Geometrical Dilution of Precision signal) loaded on the GPS signal. The GPS signal is evaluated as to whether it has been deteriorated by this GDOP signal. The GPS signal is then determined as to whether it can be used for position measuring. The unit 8 of *Ito* does not determine the communication condition according to a position, and, therefore, the unit 8 of *Ito* cannot be regarded as “a condition determining unit.”

The Examiner cites element 11 in *Ito* as disclosing a condition setting unit. The unit denoted by the numeral 11 of *Ito* is “a position calculation unit” which obtains a position based on the GPS signal or radio wave from a base station of a mobile communication telephone. This unit of *Ito* cannot be regarded as “a condition setting unit.”

In present claims 1, 8 and 9, the communication condition determining unit determines, for example, maximum number of channels, channel frequency band, and the time zone. The determination of the communication determining unit is based on the country code of the calculated position. The condition setting unit in present Claim 1 sets the communication condition in the communication control unit. The communication condition is determined by the communication condition determining unit.

In *Ito*, unit 11 obtains a position based on deterioration of the GPS signal (a first radio wave), which has been detected by the unit 8. However, it does not obtain a communication condition based on a position. Therefore, *Ito* does not teach or suggest the subject matter as specifically recited in claims 1, 8 and 9.

Accordingly, withdrawal of the § 102 rejection of claims 1-4 and 7-9 and the § 103 rejection of claim 6 is hereby solicited.

In view of the remarks above, Applicants submit that the claims are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Andrew G. Melick
Agent for Applicants
Registration No. 56,868
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

AGM/cas